

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT HOLMES, III,
Plaintiff,
vs.
METROPOLITAN POLICE
DEPARTMENT, et al.
Defendants.

Case No. 2:13-cv-00877-APG-GWF

ORDER

Motion to Serve Unserved Defendants (#27)

This matter comes before the Court on Plaintiff's Motion to Serve Unserved Defendants (#27), filed on June 23, 2014.

BACKGROUND

On March 26, 2014, the Clerk of the Court issued summonses to Defendants R. Anderson, P. Fielding, D. Franc, Julie Holl, Kevin M. Kelly, Kelly & Sullivant, Ltd., Metropolitan Police Department, Brad Nickell, Roger Palmer, Sean P. Sullivan, Tourist Safety Unit, and to the U.S. Immigration Customs Enforcement (ICE) Task Force. *See Dkt. #13.* The U.S. Marshal Services filed the returned summonses, indicating Defendants R. Anderson, D. Franc, Kevin M. Kelly, Brad Nickell, Roger Palmer, and Sean P. Sullivan were personally served. *See Dkt. #15, #17, #19.* The summonses issued for Defendants P. Fielding, Julie Holl, Kelly & Sullivan, Ltd., Metropolitan Police Department, Tourist Safety Unit, and the U.S. Immigration and Customs Enforcement (ICE) Task Force were returned unexecuted. *See Dkt. #16, #18.*

The Court granted Plaintiff's motion to extend time to serve the Defendants in part, extending the proof of service deadline to August 5, 2014. *See Dkt. #21.* On June 23, 2014, Plaintiff filed the present motion to serve the unserved Defendants. *See Dkt. #27.*

1 **I. Officer Julie Holl**

2 The unexecuted summons for Defendant Julie Holl indicated that the Las Vegas
3 Metropolitan Police Department (“LVMPD”) had no record of the listed individual. *See Dkt. #16.*
4 Plaintiff alleges that Officer Julie Holl was the lead detective on his case whose name appears on
5 all the paperwork including search warrants and arrest reports. *See Dkt. #27.* Additionally, in its
6 Motion to Dismiss (#25), Defendant LVMPD indicates that Officer Julie Holl was one of the
7 officers who executed the search warrant at Plaintiff Holmes’ residence on September 8, 2006. The
8 Court now orders the Clerk of the Court to issue a summons to Defendant Julie Holl and deliver the
9 same with a copy of the complaint to the U.S. Marshals for service. Plaintiff shall provide the U.S.
10 Marshals with a completed USM-285 form for Defendant Julie Hall for service.

11 **II. Officer P. Fielding**

12 The unexecuted summons for Defendant P. Fielding indicated that LVMPD lists the named
13 individual as retired. *See Dkt. #18.* Plaintiff requests the Court order the Defendants to provide the
14 last known address of Defendant Fielding under seal. *See Dkt. #27.* In its Errata to Defendants’
15 motion to dismiss complaint (#28), Defendant LVMPD through its counsel, the law firm of
16 Marquis Aurbach Coffing, indicated that it represents Defendant P. Fielding on behalf of LVMPD.
17 *See Dkt. #28.* Therefore, the Las Vegas Metropolitan Police Department shall either file an
18 acceptance of service on behalf of Defendant P. Fielding, or file Defendant P. Fielding’s last known
19 address under seal to effectuate service.

20 **III. Las Vegas Metropolitan Police Department**

21 The unexecuted summons for Defendant LVMPD indicated that the U.S. Marshals were
22 unable to serve the named defendant without form USM-285. *See Dkt. #18.* The Court now orders
23 the Clerk of the Court to issue a summons to Defendant Las Vegas Metropolitan Police Department
24 and deliver the same with a copy of the complaint to the U.S. Marshals for service. Plaintiff shall
25 provide the U.S. Marshals with a completed USM-285 form for Defendant LVMPD for service.

26 **IV. Las Vegas Metropolitan Police Department - Tourist Safety Unit**

27 The unexecuted summons for Defendant LVMPD - Tourist Safety Unit indicated that the
28 U.S. Marshals were unable to serve the named defendant without form USM-285. *See Dkt. #18.*

1 The Court now orders the Clerk of the Court to issue a summons to Defendant LVMPD - Tourist
2 Safety Unit and deliver the same with a copy of the complaint to the U.S. Marshals for service.
3 Plaintiff shall provide the U.S. Marshals with a completed USM-285 form for Defendant LVMPD -
4 Tourist Safety Unit for service.

5 **V. U.S. Immigration and Customs Enforcement (ICE) Task Force**

6 The unexecuted summons for Defendant U.S. Immigration and Customs Enforcement (ICE)
7 Task Force indicated that the U.S. Marshals were unable to serve the named defendant without
8 form USM-285. *See Dkt. #18.* The Court now orders the Clerk of the Court to issue a summons
9 to Defendant U.S. Immigration and Customs Enforcement (ICE) Task Force and deliver the same
10 with a copy of the complaint to the U.S. Marshals for service. Plaintiff shall provide the U.S.
11 Marshals with a completed USM-285 form for Defendant U.S. Immigration and Customs
12 Enforcement (ICE) Task Force for service.

13 **VI. Kelly & Sullivan, Ltd.**

14 The unexecuted summons for Defendant Kelly & Sullivan, Ltd., indicated that the U.S.
15 Marshals were unable to serve the named defendant without form USM-285. *See Dkt. #18.* The
16 Court now orders the Clerk of the Court to issue a summons to Defendant Kelly & Sullivan, Ltd.,
17 and deliver the same with a copy of the complaint to the U.S. Marshals for service. Plaintiff shall
18 provide the U.S. Marshals with a completed USM-285 form for Defendant Kelly & Sullivan, Ltd.,
19 for service.

20 **VII. J. Kramarczyk, B. Fulmer, and S. Sampilo**

21 Plaintiff alleges that he never received returns from the U.S. Marshals regarding Defendants
22 J. Kramarczyk, B. Fulmer, and S. Sampilo. Pursuant to the Court's Order (#7), Plaintiff was
23 permitted to pursue his action against the three previously named Defendants in their individual-
24 capacity. The official-capacity suits against the three named Defendants, however, were dismissed
25 with prejudice. *See Dkt. #7.* Defendants J. Kramarczyk, B. Fulmer, and S. Sampilo were
26 inadvertently terminated from the case pursuant to Order (#7). Therefore the Court will instruct the
27 Clerk of the Court to revoke the terminated statuses and issue summonses to the three Defendants
28 and deliver the same with a copy of the Complaint to the U.S. Marshals for service. Plaintiff shall

1 provide the U.S. Marshals with completed USM-285 forms for Defendants J. Kramarczyk, B.
2 Fulmer, and S. Sampilo for service. Accordingly,

3 **IT IS HEREBY ORDERED** Plaintiff's Motion to Serve Unserved Defendants (#27) is
4 granted.

5 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue a summons to
6 Defendant Julie Holl and deliver the same with a copy of the complaint to the U.S. Marshals for
7 service. Plaintiff shall provide the U.S. Marshals with a completed USM-285 form for Defendant
8 Julie Holl for service.

9 **IT IS FURTHER ORDERED** that the Las Vegas Metropolitan Police Department shall
10 either file an acceptance of service on behalf of Defendant P. Fielding or file Defendant P.
11 Fielding's last known address under seal by **July 14, 2014**.

12 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue a summons to
13 Defendant Las Vegas Metropolitan Police Department and deliver the same with a copy of the
14 complaint to the U.S. Marshals for service. Plaintiff shall provide the U.S. Marshals with a
15 completed USM-285 form for Defendant LVMPD for service.

16 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue a summons to
17 Defendant LVMPD - Tourist Safety Unit and deliver the same with a copy of the complaint to the
18 U.S. Marshals for service. Plaintiff shall provide the U.S. Marshals with a completed USM-285
19 form for Defendant LVMPD - Tourist Safety Unit for service.

20 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue a summons to
21 Defendant U.S. Immigration and Customs Enforcement (ICE) Task Force and deliver the same
22 with a copy of the complaint to the U.S. Marshals for service. Plaintiff shall provide the U.S.
23 Marshals with a completed USM-285 form for Defendant U.S. Immigration and Customs
24 Enforcement (ICE) Task Force for service.

25 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue a summons to
26 Defendant Kelly & Sullivan, Ltd., and deliver the same with a copy of the complaint to the U.S.
27 Marshals for service. Plaintiff shall provide the U.S. Marshals with a completed USM-285 form
28 for Defendant Kelly & Sullivan, Ltd., for service.

IT IS FURTHER ORDERED that the Clerk of the Court shall revoke the terminated statuses as to Defendants J. Kramarczyk, B. Fulmer, and S. Sampilo and issue summonses to the named Defendants and deliver the same with a copy of the Complaint to the U.S. Marshals for service. Plaintiff shall provide the U.S. Marshals with completed USM-285 forms for Defendants J. Kramarczyk, B. Fulmer, and S. Sampilo for service.

IT IS FURTHER ORDERED that the U.S. Marshals shall serve the named, unserved Defendants and file a status report with the Court by **July 31, 2014**.

DATED this 26th day of June, 2014.

George Foley Jr.

GEORGE FOLEY, JR.
United States Magistrate Judge